

REMARKS

The specification has been amended to show the revised status of this application with respect to its previously filed parent applications, and particularly that this application is a divisional of application Serial Number 09/693,963 filed on 10/23/2000, now U.S. Patent No. 6,371,644.

The claims have not been amended in this response, but are shown with their existing status, claims 1 to 11 having been previously amended by the amendment dated June 27, 2003 and filed July 2, 2003, and claim 12 having been added by the same amendment.

The applicant's attorney appreciates the opportunity afforded by the Examiner for the telephone interview held on March 30, 2004, during which the rejections were discussed, and the fact noted that the instant application is a division of U.S. Patent No. 6,371,644. It was also pointed out that pursuant to an Office restriction requirement, three divisional applications were carved out of the original application Serial Number 09/693,963 filed on 10/23/2000, now U.S. Patent No. 6,371,644, two of such divisionals having issued as U.S. Patent No. 6,519,918 for Methods of Making Resealable Packages and Reclosable Seals, and U.S. Patent No. 6,523,325 for Apparatus for Making Resealable Packages and Reclosable Seals, and the third divisional being the instant application.

Since the present application was filed as a consequence of a Patent Office restriction requirement set forth in its parent application, now U.S. Patent No. 6,371,644, the Patent Office has declared that the subject matter claims of this divisional application is a separate and distinct invention from that of U.S. Patent No. 6,371,644 and from the subjects matter of the two other patents which issued from separate divisionals. Accordingly, it is respectfully requested that the double patenting rejection set forth in paragraphs 1 and 2 of the Office Action dated January 22, 2004 be reconsidered and withdrawn. Since claims 6 to 12 have not been rejected on any other ground, they appear

to be allowable, and such allowance is now respectfully requested.

In paragraph 4 of the Office Action, claims 1 to 5 have been rejected under 35 USC103 (a) as being unpatentable over the single reference Griesbach. Applicant's claim 1 sets forth,

1. Packaging material for forming a flexible package, comprising in combination,

- a) a continuous web of substantially constant thickness packaging material, said web having width and selectable running length, said width defining the side edges of said web, and
- b) a discrete strip of substantially constant thickness flexible material, said strip having length and width, said strip width defining the strip ends, said strip length having top and bottom edges and being substantially greater than said strip width, said strip length being secured transversely to the running length of said web of packaging material along the strip top edge and being substantially unsecured along its bottom edge.

It is clear that the applicant's claims are all directed to a composite web of packaging material, and not to a package of any kind. By contrast, Griesbach does not describe or claim packaging material of any kind, but instead claims a package in all fourteen of Griesbach's claims.

Further, the packages of Griesbach, as shown, described and claimed, do not disclose or suggest the use of "a discrete strip of substantially constant thickness flexible material", but show instead pre-formed configured interlocking closure strips 33/34 (Griesbach Figure 6A), or 14 (Griesbach Figures 2, 3, and 4) which are certainly not of substantially constant thickness. The use in Griesbach of constant thickness strips would render the Griesbach packages useless for their intended purpose. They require a pre-formed interlock closure, because there is no means disclosed in Griesbach to form a closure. By contrast, the applicant's disclosure specifically shows and

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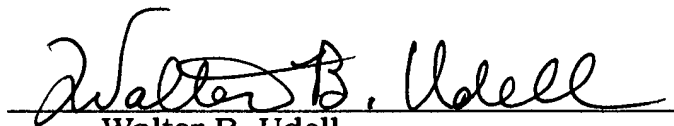
Page 7

describes apparatus for forming a closure from the claimed flat strip, as see applicant's Figures 9, 9A, 9B, and 9C.

This amendment was previously submitted under date of April 9, 2004, but was returned as non-compliant with regard to the designation of the claims for reasons set forth in a Revised Notice, no copy of which accompanied the Action. After today conferring with Examiner Hardy, the claims have now been re-designated to properly comply with the revised rules.

For the foregoing reasons it appears that the claims in this case are patentably distinguishable over the art of record and fairly warrant allowance, such allowance being respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter B. Udell", is written over a horizontal line.

Walter B. Udell  
Attorney for Applicant  
215-538-7227

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